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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Case No. 2:22-mj-00814-BNW

Plaintiff,

Stipulation to Extend Deadlines to Conduct Preliminary Hearing and File Indictment

JOSE MARIN CABADAS-MORALES,
aka "Jose Cabadas-Morales,"
aka "Manuel Vargas-Sanchez,"
aka "Manuel Vargassanchez,"
aka "Manuel Sanchez-Vargas,"
aka "Manuel Vargas,"
aka "Manuel Sanchez."

(Second Request)

Defendant.

IT IS HEREBY STIPULATED AND AGREED, by and between Jason M. Frierson, United States Attorney, and Kimberly M. Frayn, Assistant United States Attorney, counsel for the United States of America, and Andrew Wong, Esq., counsel for Defendant JOSE CABADAS-MORALES, that the Court schedule the preliminary hearing in this case for no earlier than 90 days from the currently scheduled preliminary hearing on May 8, 2023, at 1:00 p.m. This request requires that the Court extend two deadlines: (1) that a preliminary hearing be conducted within 14 days of a detained defendant's initial

1 appearance, *see* Fed. R. Crim. P. 5.1(c); and (2) that an information or indictment be filed
2 within 30 days of a defendant's arrest, *see* 18 U.S.C. § 3161(b).

3 This stipulation is entered into for the following reasons:

4 1. The United States Attorney's Office has developed an early disposition
5 program for immigration cases, authorized by the Attorney General pursuant to the
6 PROTECT ACT of 2003, Pub. L. 108-21.

7 2. The early disposition program for immigration cases is designed to: (1)
8 reduce the number of hearings required in order to dispose of a criminal case; (2) avoid
9 having more cases added to the court's trial calendar, while still discharging the
10 government's duty to prosecute federal crimes; (3) reduce the amount of time between
11 complaint and sentencing; and (4) avoid adding significant time to the grand jury calendar
12 to seek indictments in immigration cases, which in turn reduces court costs.

13 3. The government has made a plea offer in this case that requires defendant to
14 waive specific rights and hearings in exchange for "fast-track" downward departure under
15 USSG § 5K3.1. This offer will be withdrawn if it is not timely accepted before this matter is
16 indicted and before a preliminary hearing is held.

17 4. The defendant has accepted the plea offer and has executed a written plea
18 agreement. A change of plea/sentencing hearing has been scheduled on June 12, 2023 in
19 case number 2:23-cr-00078-APG-VCF. If the Court fails to accept the defendant's plea of
20 guilty, the defendant and his counsel will need additional time to prepare for the
21 preliminary hearing.

22 5. Under Federal Rule of Criminal Procedure 5.1(c), the Court "must hold the
23 preliminary hearing within a reasonable time, but no later than 14 days after the initial
24 appearance if the defendant is in custody . . ."

6. However, under Rule 5.1(d), “[w]ith the defendant’s consent and upon a showing of good cause—taking into account the public interest in the prompt disposition of criminal cases—a magistrate judge may extend the time limits in Rule 5.1(c) one or more times . . .”

7. Furthermore, under the Speedy Trial Act, 18 U.S.C. § 3161(b), “[a]ny information or indictment charging an individual with the commission of an offense shall be filed within thirty days from the date on which such individual was arrested or served with a summons in connection with such charges.”

8. Defendant needs additional time to review the discovery and investigate potential defenses to make an informed decision as to how to proceed, if the Court does not accept his guilty plea on June 12, 2023.

9. Accordingly, the parties jointly request that the Court schedule the preliminary hearing in this case no sooner than 90 days from today's date.

10. Defendant is in custody and agrees to the extension of the 14-day deadline imposed by Rule 5.1(c) and waives any right to remedies under Rule 5.1(c) or 18 U.S.C. § 3161(b), provided that the information or indictment is filed on or before the date ordered pursuant to this stipulation.

11. The parties agree to the extension of that deadline.

12. This extension supports the public interest in the prompt disposition of criminal cases by permitting defendant to consider entering into a plea agreement under the United States Attorney's Office's fast-track program for § 1326 defendants.

13. Accordingly, the additional time requested by this stipulation is allowed under Federal Rule of Criminal Procedure 5.1(d).

14. In addition, the parties stipulate and agree that the time between today and the scheduled preliminary hearing is excludable in computing the time within which the defendant must be indicted and the trial herein must commence pursuant to the Speedy Trial Act, 18 U.S.C. § 3161(b) and (h)(7)(A), considering the factors under 18 U.S.C. § 3161(h)(7)(B)(i) and (iv).

15. This is the second request for an extension of the deadlines by which to conduct the preliminary hearing and to file an indictment.

DATED this 20th day of April, 2023.

Respectfully Submitted,

JASON M. FRIERSON
United States Attorney

/s/ Andrew Wong, Esq.
ANDREW WONG, ESQ.
Counsel for Defendant CABADAS-
MORALES

/s/ Kimberly M. Frayn
KIMBERLY M. FRAYN
Assistant United States Attorney

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Case No. 2:22-mj-00814-BNW

Plaintiff,

**Order on Stipulation
to Extend Deadlines to Conduct
Preliminary Hearing and
File Indictment**

JOSE MARIN CABADAS-MORALES,
aka "Jose Cabadas-Morales,"
aka "Manuel Vargas-Sanchez,"
aka "Manuel Vargassanchez,"
aka "Manuel Sanchez-Vargas,"
aka "Manuel Vargas,"
aka "Manuel Sanchez,"

Defendant.

Based on the stipulation of counsel, good cause appearing, and the best interest of justice being served; the time requested by this stipulation being excludable in computing the time within which the defendant must be indicted and the trial herein must commence pursuant to the Speedy Trial Act, 18 U.S.C. § 3161(b) and (h)(7)(A), and Federal Rule of Criminal Procedure 5.1, considering the factors under 18 U.S.C. § 3161(h)(7)(B)(i) and (iv):

IT IS THEREFORE ORDERED that the preliminary hearing currently scheduled on May 8, 2023, at the hour of 1:00 p.m., be vacated and continued to **August 9, 2023 at 2:00 p.m.**

DATED this 25th day of April, 2023.

Brenda Weksler
HONORABLE BRENDA N. WEKSLER
UNITED STATES MAGISTRATE JUDGE